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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/593,143	06/26/2007	Tobias Lang	10191/4829	7849
26646	7590	07/07/2008	EXAMINER	
KENYON & KENYON LLP			PATEL, HARSHAD R	
ONE BROADWAY				
NEW YORK, NY 10004			ART UNIT	PAPER NUMBER
			2855	
			MAIL DATE	DELIVERY MODE
			07/07/2008	PAPER

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

<b>Office Action Summary</b>	<b>Application No.</b>	<b>Applicant(s)</b>	
	10/593,143	LANG, TOBIAS	
	<b>Examiner</b>	<b>Art Unit</b>	
	HARSHAD PATEL	2855	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

#### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

#### Status

- 1) Responsive to communication(s) filed on \_\_\_\_.
- 2a) This action is **FINAL**.                    2b) This action is non-final.
- 3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

#### Disposition of Claims

- 4) Claim(s) 12-23 is/are pending in the application.
  - 4a) Of the above claim(s) \_\_\_\_ is/are withdrawn from consideration.
- 5) Claim(s) \_\_\_\_ is/are allowed.
- 6) Claim(s) 12-22 is/are rejected.
- 7) Claim(s) 23 is/are objected to.
- 8) Claim(s) \_\_\_\_ are subject to restriction and/or election requirement.

#### Application Papers

- 9) The specification is objected to by the Examiner.
- 10) The drawing(s) filed on 18 September 2006 is/are: a) accepted or b) objected to by the Examiner.
 

Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

#### Priority under 35 U.S.C. § 119

- 12) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
  - a) All    b) Some \* c) None of:
    1. Certified copies of the priority documents have been received.
    2. Certified copies of the priority documents have been received in Application No. \_\_\_\_.
    3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

#### Attachment(s)

- |  |   |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)            | 4) <input type="checkbox"/> Interview Summary (PTO-413)           |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)   | Paper No(s)/Mail Date. ____ .                                     |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date <u>9/18/06</u> .   | 6) <input type="checkbox"/> Other: ____ .                         |

***Priority***

1. Receipt is acknowledged of papers submitted under 35 U.S.C. 119(a)-(d), which papers have been placed of record in the file.

***Claim Rejections - 35 USC § 103***

2. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

3. Claims 12-15 and 17-22 are rejected under 35 U.S.C. 103(a) as being unpatentable over Lynnworth et al. (5,440,937) (hereinafter Lynnworth) in view of Birchak (4,532,812).

Lynnworth teaches an ultrasonic flow sensor comprising all the features as claimed including an array of a plurality of ultrasonic transducers positioned on the pipe and emitting ultrasonic signals through the fluid flowing in the pipe, a reflective surface lying opposite the array and a receiver system that detects and evaluates the ultrasonic signals reflected from the reflective surface. Lynnworth does not teach the emitting transducers also being receiving transducers. However, Birchak, in the same field of endeavor, teaches the transducers being transceivers that operate as an emitter and a receiver. It would be within the skilled individual to replace the transceivers of Birchak for the separate emitter receiver arrangement since such arrangement would provide ease in installation of the transducers to the pipes. As to providing a bulge in the inside of the pipe would be within the skilled individual since such an arrangement would merely operate equally to the other, with an exception of modifying the arrangement of the transducer to transmit the signals. As to the screen device, applicant indicates that the surface of the pipe

which is unpolished (rough) would be considered as a screening device, thus the unpolished surface upstream and downstream of the reflective surface of Lynnworth or Birchak would inherently function as a screening device.

4. Claim 16 is rejected under 35 U.S.C. 103(a) as being unpatentable over Lynnworth in view of Birchak and further in view of Terhune et al. (5,426,678) (hereinafter Terhune). Lynnworth in view of Birchak teaches all the features of the claimed invention except for the ultrasonic transducers operated to generate a cylindrical, spherical or ellipsoidal wave front. Terhune teaches an ultrasonic transducer generating a cylindrical wave front. It would be obvious to a skilled individual since such wave front are shaped based on the type the signals are transmitted and based on the flow.

***Allowable Subject Matter***

5. Claim 23 is objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

6. The following is a statement of reasons for the indication of allowable subject matter: The prior arts made available do not teach or fairly suggest, alone or in combination, the transducer array activated such that the reflected wave on the reflective surface impinges on the array in a punctiform manner and a linear manner.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to HARSHAD PATEL whose telephone number is (571)272-2187. The examiner can normally be reached on Monday-Thursday (6:30 AM-5:00 PM).

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Edward Lefkowitz can be reached on (571) 272-2180. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/Harshad Patel/  
Primary Examiner, Art Unit 2855

HP  
7/1/08